

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

COLLEEN HOLM
Claimant

APPEAL NO: 11A-UCFE-00031-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE
Employer

OC: 04-10-11
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 22, 2011, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 26, 2011. The claimant participated in the hearing with her witness/husband Bryan Holm. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time temporary casual mail clerk for the US Postal Service from June 2009 to April 9, 2011. The claimant was given unwanted attention by her supervisor, Kenny, who would call her cell phone during off work hours and when her husband would answer, he would hang up. The situation sparked a heated argument between the claimant and her husband and they separated for a few days beginning April 1, 2011. The claimant told another supervisor she and her husband were experiencing problems and said she needed some time off and was told to take the next three days off and return Monday, April 4, 2011. On April 4, 2011, she asked Kenny if she could park inside because she was afraid her husband might come and take her car. He said he could not make that decision but would ask his supervisor and a meeting was held about her request April 6, 2011. She was asked if she was being physically abused and if she had filed a police report and when she said she had not she was denied the opportunity to park inside but was told the employer would work with her and she could take as much time off as she needed. The claimant was not scheduled to work April 7 or 8, 2011, and asked for Friday, April 9, 2011, off work and the employer granted her the time off. She notified Kenny she would not be working April 9, 2011. During her days off the claimant learned her husband was involved in an accident in Colorado and went there to be with him. On April 9, 2011, on their way back from Colorado, they were notified that four Dallas

County Sheriff's Deputies had gone to their house looking for the claimant because someone called and stated he thought she was possibly a missing person or may have been murdered by her husband. The deputies questioned the claimant's husband's ex-wife, who was staying at the house with their children, and a family friend about the situation. The claimant and her husband learned that Kenny found out the claimant was with her husband and not at a shelter and were sure that Kenny had contacted the Sheriff's Office and had done so without trying to contact the claimant on her home or cell phone that day before calling the authorities, and believed he did so because he was upset to learn she was back together with her husband. On Saturday, April 9, 2011, during their ride back from Colorado, Kenny called the claimant's cell phone and her husband answered. He asked Kenny why he had done what he did and he refused to answer but did not deny the accusations. He called back two more times and the claimant's husband told him to stop making personal calls to the claimant and to leave her alone at work. The claimant had previously texted Kenny telling him not to call her anymore. Finally, the claimant's husband told him if he did not stop calling he would go to Kenny's house and tell his wife what was going on. The claimant received a few more cell phone calls from the same number but when the claimant's husband answered the caller hung up. The claimant was forced to get a different cell phone with a different number. The claimant and her husband decided she could no longer continue working for the employer given Kenny's behavior toward her and that their marriage was more important than the job. As a result of that decision the claimant did not return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant's supervisor, Kenny, provided her with unwanted attention at work and outside of work, to the point that his actions caused severe problems in the claimant's marriage and she and her husband separated for a brief period of time. When Kenny learned they reconciled he called the Dallas County Sheriff's Office April 9, 2011, and made a report of a possible missing person or murder which resulted in four sheriff's deputies going to their home when they were on their way home from Colorado. Kenny did not try to call the claimant either at home or on her cell phone prior to calling the Sheriff's department April 9, 2011. Kenny's actions were malicious and reckless and caused undue emotional distress to the claimant and her husband and made it impossible for her to return to work because the working conditions, if not unlawful were definitely intolerable and detrimental. Consequently, the administrative law judge concludes the claimant has met her burden of proving that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The June 22, 2011, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css